IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3348 OF 1989

M/s.Poonam Plastic Industries. ...Petitioners
V/s
Union of India & Ors. ...Respondents

Mr.S.N. Kantawala i/b. M/a.Kantawala & Co. for Petitioners.
Ms.S.V. Bharucha with Mr.D.A. Dubey for Respondents.

CORAM : S. RADHAKRISHNAN AND A.S. AGUIAR, JJ.

DATED : JUNE 9, 2005.

P.C. :-

1. Heard learned Counsel for the parties.

2. It appears from the interim order passed in this matter that the said interim order was granted in this petition in view of the order passed in Writ Petition Nos.3136/89 and 3140/89.

3. The learned Counsel for the respondents brought to our notice that both these Writ Petitions No.3136/89 as well as 3140/89 have already been disposed of by this

Court by order dated 20th March, 2003.

4. The short question involved in the above matters as well as the present petition is that whether additional duty of customs is leviable on acrylic sheet imported by the petitioners. According to the petitioners, in view of Notification No.53/88/CE dated 1st March, 1988, there being total exemption on payment of central excise duty on manufacture of acrylic sheet falling under Chapter heading 39.20 subject to the fulfilment of the conditions set out therein, no additional duty under Section 3 Clause 1 of the Customs Tariff Act is leviable on the goods imported by the petitioners. On the other hand, the contention of the revenue is that the notification No.53/88 CE dated 1.3.1988 being a conditional notification and since the conditions attached to the said Notification were not satisfied, the petitioners are not entitled to seek any exemption from payment of additional duty.

4. It is the submission of the both the Counsel for the petitioners as well as of respondents that the issue

will have to be remanded back to the customs authority for the purpose of quantification of additional duty.

5. As held in the aforesaid Division Bench Judgment dated 20th March, 2003, we are also of the opinion that the issues in the present petition is squarely covered by the Division Bench of this Court in the case of **Ashok Traders V/s. Union of India and Anr. reported in 1987 (32) E.L.T. 262 (Bom)** and we held that the petitioners are liable to pay additional duty on acrylic sheet imported by them.

6. As the goods have already been cleared under the interim order of this Court without paying any additional duty and without any security, we direct the customs authorities to quantify the amount of additional duty payable by the petitioners in respect of acrylic sheet, which is the subject matter of this petition and inform the same to the petitioners within a period of four weeks from the receipt of the said order. The petitioners shall pay the additional duty so quantified by the customs authorities within a period of eight

weeks from the receipt of communication with interest at the rate of 10% p.a. from the date of clearance of the goods till payment.

7. Writ Petition stands disposed of accordingly.

(S. RADHAKRISHNAN, J.)

(A.S. AGUIAR, J.)